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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Bernard L. Ballou JR.

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EXAMINER

RAMAN, USHA

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/781,680	Applicant(s) BALLOU ET AL.	
	Examiner Usha Raman	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments with respect to claims 41 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 80 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 80 recites the limitation "the first table" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 42-50, 52-53, 27, 61-66, 71-75, 78, 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US Pat. 5,619,247) in view of Knight et al. (US Pat. 6,243,350).

In regards to claims 42, 61 and 71, Russo discloses a method in a video distribution system comprising

Providing at least one portable storage medium having a physical format to at least one viewer having multiple video segments recorded thereon (Russo: column 7, lines 40-51);

Reading the medium with a reader device configured to read the physical format (Russo: record/play controller 10);

Tracking with the reader device which and how many times the video segments are played (i.e. pay per play) using characteristics of the physical format (Russo: column 3, lines 20-24, column 6, lines 33-36, column 7, lines 53-55, column 10, lines 23-29 and 32-34).

Russo does not teach multilayer storage medium.

Knight discloses the step of using multilayer storage medium to increase the capacity of storage mediums (Knight: column 3, lines 60-62, column 42, lines 34-39, column 58, lines 44-46, lines 57-59) for the purpose of distributing a high capacity disk with a plurality of movies recorded thereon.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in view of Knight by further increasing the capacity of a storage medium by using a multilayer storage medium, thereby allowing additional movies to be recorded on a single disk.

In regards to claim 43, the multilayer storage medium has multiple feature length movies stored thereon (Knight: column 58, lines 57-59).

In regards to claim 44, the system does not disclose providing at least one viewer with at least one multilayer storage medium comprises distributing multiple

multilayer storage mediums to at least one viewer on a periodic basis. Examiner takes official notice that it is well known for new movies to be released from time to time. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to periodically distribute the new releases multilayer storage medium, in order to make the new releases available to the users thereby generating additional revenue from the new releases.

In regards to claim 45 and 82, the multilayer storage medium is an optical disk that has the storage capacity of approximately 20 gigabytes of information (Knight: column 29, lines 51-53, lines 61-63).

In regards to claim 46, the system comprises the step of recording movies by various genres, as preferred by the viewer or requested by the viewer (Russo: column 7, lines 55-61). System does not disclose the step of multilayer storage medium containing recordings of classic/older movies. Examiner takes official notice that "classic movies" was a well-known genre of movie at the time of the invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modifying the invention by providing multilayer storage medium with recordings of classic movies, in order to make available to the user video segments from the classic movies genre.

In regards to claim 47, the system comprises the step of providing at least on multilayer storage medium comprises providing a mechanism for the viewer to order a selected multilayer storage medium of multiple classic/older movie multilayer storage mediums (Russo: column 9, lines 63-65).

In regards to claims 48, 64 and 72, the multilayer storage medium was recorded using near field disk recording for increasing areal density and thereby increasing the track density (Knight: column 5, lines 12-18).

In regards to claim 49, the multiple video segments are encrypted (Russo: column 6, lines 9-21)

In regards to claims 50, 65 and 74 the reader device has a first unique identifier (since provider broadcasts an access code specifically addressed to the subscriber decoder. Russo: column 6, lines 12-15)

In regards to claims 52 and 66, information is transmitted between the reader device and a central computer (Russo: column 6, lines 26-28 and lines 34-40)

In regards to claims 53, and 75, the transmitting step further comprises reader device transmitting the first unique identifier to the central computer (i.e. for purposes of billing and receiving authorization. Russo: column 3, lines 7-9, column 6, lines 25-27).

In regard to claim 57, when each reader device transmits its first identifier to the central computer, the reader device also transmits to the central computer data identifying at least one movie that has been played on the reader device (Russo: column 3, lines 20-24, column 7, lines 48-49, lines 53-55).

In regards to claim 78, when the central computer sends the code to the reader device, the central computer also sends the reader device instructions for an amount of available credit that the reader device can draw upon (Russo: column 5, lines 59-61, column 6, lines 18-27, column 10 lines 43-48).

In regards to claims 62, and 73, the multilayer storage medium is distributed from of a group of multilayer mediums comprising movies of various genres (Russo: column 9, lines 61-65).

The system does not disclose that the group comprises a first group of multilayer storage mediums having newer release movies recorded thereon, and a second group of multilayer storage having classic/older movies recorded thereon.

Examiner takes official notice that new releases and classic movies were well known genres at the time of the invention.

It would have been obvious to one of ordinary skill in the art to distribute multilayer storage medium having new release movies from a first group of new release storage mediums and distributing a storage medium having classic movies from a second group of classic movie storage mediums, in order to give the opportunity to a subscriber to order new or old movies.

In regards to claim 63, the distribution network provides a mechanism for the viewer to order a select one of second group of multilayer storage mediums having the classic/older movies (i.e. by category; Russo: column 9, lines 63-65, column 7, lines 48-51).

The distribution network does not distribute at least one multilayer storage medium having new release movie to the viewer on a periodic basis.

Examiner takes official notice that it is well known for new movies to be released from time to time. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to periodically distribute the new releases

multilayer storage medium, in order to make the new releases available to the users thereby generating additional revenue from the new releases.

6. Claims 54-56, 59-60, 67-68, 70, 76, 79, 80, 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US Pat. 5,619,247) in view of Knight et al. (US Pat. 6,243,350) and further in view of Braitberg (WO 01/54410 A2).

In regards to claim 54, the system does not transfer a second unique identifier from the reader device to the central computer when transmitting the first identifier to the central computer.

Braitberg discloses the step of transmitting a unique media identifier (such as a serial number) of the disk in order to obtain authorization to play content from that disk, thereby preventing unauthorized access of media content when disks have been reproduced (Braitberg: page 4, lines 13-16, page 5, lines 4-10, lines 23-26 and page 8, lines 33-34).

It would have been obvious to one of ordinary skill in the art at the time to modify the system to transmit a unique media identifier identifying the digital movie disk (i.e. second unique identification code), in order to receive access for that disk. The motivation is to ensure that payment is made for viewing content in the even a disk has been copied.

In regards to claim 55, when the central computer receives the first and second identifiers from the reader device, the central computer creates a digital rights management code (i.e. content enablement key) and sends the code to the reader device (Braitberg: page 13, lines 1-12).

In regards to claim 56, 68, when the central computer sends the code to the reader device, the central computer also sends the reader device instructions for an amount of available credit that the reader device can draw upon (Russo: column 5, lines 59-61, column 6, lines 18-27, column 10 lines 43-48).

In regards to claims 67, and 76, see claims 54 and 55.

In regards to claims 70 and 79, the system does not comprise a first table that lists standard pricing rules for a first category of movies and a second table that lists exception-pricing rules for a second category of movies.

Braitberg discloses the step of establishing pricing structures for content based on enablement or non-enablement of advertisements. Thus, content with advertisements enabled (i.e. the first category of content) have a first set of "standard" pricing rules and content with advertisements with non-enablement have a second set of "exception" (i.e. a premium type subscription) pricing rules (second category of content). The movies therefore have two pricing modes for all movies (i.e. standard and exception) based on enablement of advertisements (Braitberg: page 5, lines 27-page 6, lines 2, page 10, lines 21-28).

It would have been obvious to one of ordinary skill in the art to modify the system to provide customer with a first category of movies with a first standard pricing rule and a second category of movies with a second exception pricing rules in order to provide the customer with flexible, variable pricing scheme for movies.

In regards to claims 59-60, 79, and 81, see claim 70.

In regards to claim 80, the system computer comprises means for changing pricing rules (for obtaining additional access privileges) listed in the first and second tables (Braitberg: page 6, lines 20-22).

7. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US Pat. 5,619,247) in view of Knight et al. (US Pat. 6,243,350) as applied to claim 50 above, and further in view of Goode et al. (US Pre Grant Pub. 2004/0083492)

In regards to claim 51, the system lacks the step of providing a mechanism for the viewer to select the unique identifier for the reader device.

Goode discloses a system where a subscriber selects a personal identification number in order identify a user from a household of plurality of users while establishing a communication with the provider (Goode: [0041])

It would have been obvious to one of ordinary skill in the art to modify the system by including the step of a customer selecting a PIN in addition to the terminal identification number, in order to identify the services and privileges that the subscriber is permitted to access.

8. Claims 58 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US Pat. 5,619,247) in view of Knight et al. (US Pat. 6,243,350) as applied to claims 57 and 71 above, and further in view of Voyticky (US Pat. 6,438,751)

In regards to claims 58 and 77, the system does not comprise the step of when the reader device transmits its first identifier to the central computer, the reader device also transmitting to the central computer information identifying dates and times the movies have been played on the reader device.

Voyticky teaches the step of time-stamping the playback of an event and sending the time stamp information to the provider so that the head end can track the time an event was watched at (Voyticky: figures 6, 7 and abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system to include time stamps (i.e. time and date) in order to allow the system controller to determine when an event was watched.

9. Claim 69 rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US Pat. 5,619,247) in view of Knight et al. (US Pat. 6,243,350) and (WO 01/54410 A2) as applied to claim 67 above, and further in view of Voyticky (US Pat. 6,438,751).

In regards to claims 69 the system does not comprise the step of when the reader device transmits its first identifier to the central computer, the reader device also transmitting to the central computer information identifying dates and times the movies have been played on the reader device.

Voyticky teaches the step of time-stamping the playback of an event and sending the time stamp information to the provider so that the head end can track the time an event was watched at (Voyticky: figures 6, 7 and abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system to include time stamps (i.e. time and date) in order to allow the system controller to determine when an event was watched.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Usha Raman whose telephone number is (571) 272-7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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